

This letter discusses taxation of sellers/installers of wall-to-wall carpeting. See 86 Ill. Adm. Code 130.1940 and 86 Ill. Adm. Code 130.2075. (This is a GIL).

August 28, 2000

Dear Xxxxx:

This letter is in response to your letter dated July 13, 2000. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120 subsections (b) and (c), which can be found at <http://www.revenue.state.il.us/legalinformation/regs/part1200>.

In your letter, you have stated and made inquiry as follows:

We are in receipt of your Informational Bulletin No. 2000-18 pertaining to retailers who sell carpet.

It is my understanding that the tax will be on the cost of price of materials and not the retail price.

However, the memo is not clear as to the rate of tax.

I spoke to someone in your department on Wednesday, July 12<sup>th</sup>, and was told that the rate will be the Use Tax rate, 6-1/4%, whether or not it is an in-state or out-of-state supplier.

When I asked for something in writing pertaining to this, I was told to make a formal request, and please consider this letter a formal request.

Frankly, it does not make sense for there to be two different rates for in-state suppliers and out-of-state suppliers and therefore, it would appear that the proper rate is, in fact, 6-1/4% for all.

When I discussed this, via telephone, with your office, I was told to fill in the Form ST-1 through Line 3 and then skip to Line 12 and pay the Use Tax rate.

Although I agree that this should be the result, I do want to have something in writing for my records.

Furthermore, is there an effective date for this bulletin?

We have a client who does 99% of their business with contractors and installs tile and carpeting for residential homebuilders.

It has been our understanding, for many years, that the proper rate is the Use Tax rate on materials.

This is based on a letter I received from your department several years ago.

I respectfully request that you review the Informational Bulletin, determine the proper approach we should be taking, provide us with an effective date, and give us as much information as possible so that we can pay the proper tax to the Illinois Department of Revenue.

If you need further information, please contact the writer of this letter.

In Illinois, construction contractors are deemed end users of tangible personal property purchased for incorporation into real property. As end users of such tangible personal property, contractors incur Use Tax liability for such purchases based upon the cost price of the tangible personal property. Therefore, any tangible personal property that contractors purchase that will be permanently affixed to or incorporated into real property in this State will be subject to Use Tax. If purchases are made from Illinois registered suppliers, the tax is to be paid to those suppliers at the rates in effect at the suppliers' location. The State Use Tax rate is 6.25%; however, Illinois suppliers may be subject to local taxes for which they are authorized to seek reimbursement from their customers. If purchases are made from out-of-State suppliers not registered to collect Illinois tax, contractors must self-assess Illinois Use Tax at the 6.25% rate and remit it to the Department.

Construction contractors incur Retailers' Occupation Tax liability when they engage in selling any kind of tangible personal property (over-the counter sales) to purchasers without permanently affixing the tangible personal property to real estate. See subsection (b)(1) of 86 Ill. Adm. Code 130.1940. Such would be the case when dealers sell carpet to customers without contracting to permanently affix the carpet to realty. When dealers purchase tangible personal property for resale, they can make such purchases tax-free by providing their suppliers with Certificates of Resale. See the Department's regulation at 86 Ill. Adm. Code 130.1405 regarding resale certificates. They must pay Retailers' Occupation Tax and any applicable local taxes based upon the gross receipts received when they sell the carpet at retail.

When a construction contractor who also sells carpet at retail purchases carpet which he may use in a construction contract but which he might instead resell at retail, and it is impracticable at the time of purchase for the construction contractor to determine in which way he will dispose of the carpet, the construction contractor may certify to his supplier that he is buying all of the carpet for resale and thereafter account to the Department for the tax upon disposing of the carpet. If the carpet is subsequently sold at retail, the construction contractor will owe Retailers' Occupation Tax and any applicable local taxes on the gross receipts he receives for the sale. If the carpet is permanently installed by the construction contractor, the construction contractor will owe Retailers' Occupation Tax and any applicable local taxes on his cost price of the carpet. See subsection (b) of 86 Ill. Adm. Code 130.2075 for details.

August 28, 2000

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at [www.revenue.state.il.us](http://www.revenue.state.il.us). If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Martha P. Mote  
Associate Counsel

MPM:msk  
Enc.